1 (3) Single Bench

of 1001

BEFORE THE HONOURABLE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 4717 /2004

PETITIONER

C. DAS, son of Late M.S. Das, aged about 41 years, occupation – Service, posted, as Constable, R.P.F. S.E.C.R., Bilaspur (Chhattisgarh)

VERSUS

RESPONDENTS

1. Union of India through : the Secretary, Ministry of Railway, New Delhi.

2. The Chief Security Commissioner, R.P.F. South Eastern Central Railway, Bilaspur (Chhattisgarh)

3. The Divisional Security Commissioner, R.P.F. South Eastern Central Railway, Bilaspur (Chhattisgarh)

P.R. No. 4770/04
Presented by Shri S.S. Dubey
dated 06-12-04

WRIT PETITION UNDER ARTICLE 226 R/W ARTICLE 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, ORDER OR ORDERS, DIRECTION OR DIRECTIONS:

(23)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 4717/04 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

03-01-2005

Shri Sushil Dubey, counsel for the petitioner.

Shri Vinay Harit, Standing counsel for the Railways.

Application for urgent hearing is allowed.

Heard.

Shri Dubey, learned counsel for the petitioner submits that the petitioner is serving in Railway Protection Force as Constable under the control of respondent No.3/Divisional Security Commissioner. He further submits that the wife of the petitioner namely Smt. Madhu Hemlata Das, is working as an Assistant Teacher, Janpad Primary School, Sirgitti, District Bilaspur. He also submits that vide order dated 12-10-2004 (Annexure-P/1) the attachment of the petitioner has been withdrawn and he send back to Outpost Pendra. He also submits that the petitioner has submitted representation (Annexure-P/5) before the respondent authorities but the same is pending consideration. It is contended that according to the policy (Annexure-P/4) and clause-iv the petitioner cannot be transferred.

Clause-iv of the Policy is relevant and quoted below:

> ***"(iv) Where one of the spouses is a railway servant and the other belongs to a state service:***
> *The Railway servant should be posted at the station/place in the Railway/Division /PU in whose territorial jurisdiction the place/state of posting of his/her spouse falls. If it is not possible, if a request from the Railway servant to the Controlling Authority of the spouse for his/her posting at the place of posting of the railway servant is received, the same may be forwarded to the concerned authority for sympathetic consideration."*

(24)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

WP 4717/04

मामला क्रमांक ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Having considered and without expressing any opinion on the merits of the case, in the opinion of this Court, ends of justice will be served if a direction is given to the competent authority of the respondents to decide the representation (Annexure-P/5) submitted by the petitioner, on its own merits in accordance with law.

Learned counsel for the petitioner submits that the petitioner has not been relieved. He prays that the petitioner may be allowed to continue.

In view of the statement made by learned counsel for the petitioner, it is directed that if the petitioner has not been relieved he may be allowed to continue till the representation is decided. It is made clear that if the petitioner has already been relieved, this order will not entitle the petitioner to rejoin at the earlier place of posting.

With the aforesaid observation, this petition stands disposed of.

Consequently, M.W.P.No.5008/2004 also stands disposed of.

Parties are entitled certified copy of this order as per rules.

Sd/-
Fakhruddin
Judge

Gowri

Gr. PRJ—FS/350—12/2000—50,000.

11.01.05